IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH.

C.O.C.P. No. 1348 of 2005.
Date of Decision: September 12, 2006.

Manju Mehrota

....**Petitioner**

through
Mr. Raman B.Garg, Advocate

Versus

R.S.Gujral & Ors.

...**Respondents**
through
Mr. R.D.Sharma, DAG, Haryana.

CORAM:

HON'BLE MR. JUSTICE SURYA KANT.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

SURYA KANT,J.(ORAL)

The petitioner, who was appointed as a Primary Teacher by the Management of Vidya Niketan Senior Secondary School, NIT, Faridabad and whose services were terminated on 2.7.2002 on the ground that she had become surplus, approached this Court by way of CWP No.8955 of 2005. In the said writ petition, authorities of the State of Haryana in Education Department were arrayed as respondents No. 1 to 5. It appears that at the time of preliminary hearing, notice on behalf of the State Authorities was accepted by a Law Officer of the State. However, no notice of motion could be issued to the school or its Management which were impleaded as respondents No. 6 and 7. The writ petition was disposed of on 30.5.2005

with a "direction to the respondents to take final decision on the representation, Annexure P-16, within a period of three months.....".

Alleging non-compliance of the aforementioned order, the petitioner has filed this contempt petition.

In response to the show cause notice, separate affidavits have been filed by respondents No.1, 2, 4 and 5 respectively.

In their affidavits, the aforementioned respondents have taken a stand that since the petitioner was not appointed by the school against the post sanctioned under the "Grant-in-aid Scheme", her services were never protected either under the Haryana Aided School (Security of Services) Act, 1971 or under the Haryana School Education Act, 1995 notified on 4th June, 1999 vide which 1971 Act was repealed. It has been further averred that no protection of Section 3(3) of the Repealed Act of 1971 and/or of the Haryana School Education Rules, 2003 could be extended to the petitioner for the reason that the aforesaid provisions operate only when an employee of a recognized aided school is "dismissed", "removed" or "reduced in rank". No such action was taken against the petitioner. It has also been explained that since the petitioner was employed against an unaided post and even if it is assumed that Rules 181, 182 and 183 of 2003 Rules are attracted, yet the "minor" or "major" penalties can be imposed upon such employee by the Disciplinary Authorities of the Management only. To be precise, it is the stand of respondents No. 1 to 5 that they have absolutely nothing to do with the employment and/or termination of services of the petitioner by the Management of a private School.

In support of their stand, the official respondents have also placed on record the details of the "Grant-in-aid" sanctioned for the

respondent school (Annexure R-1) which indicates that the petitioner was never appointed against a sanctioned post and in fact some of the teachers who were appointed against the sanctioned aided posts in the respondent school, have also been rendered surplus for want of sufficient work load.

In order to ensure that the directions issued by this Court vide order dated 30.5.2005 are complied with, the official respondents appear to have directed the Management of the School to consider the claim of the petitioner as contained in her representation (Annexure P-16 appended with the writ petition) and dispose of the same by passing a speaking order. The said direction has since been complied with by the Management of the school and an order dated 19.12.2005 has been passed by it, a copy of which is appended by the second respondent with his affidavit as Annexure R-2.

In this view of the matter and having regard to the stand taken by the respondents in their affidavits, referred to above, and keeping in view the fact that the management of the school in which the petitioner was employed against an un-aided post, has considered and disposed of her claim in terms of the directions issued by this Court, but without expressing any opinion on the merits of the stand taken by the respondents, this petition is disposed of with liberty to the petitioner to impugn the order vide which her services were terminated and/or the speaking order (Annexure R-2) passed by the Management of the respondent School before an appropriate forum, if so permissible in law.

Disposed of.

Rule discharged.

September 12, 2006. **(SURYA KANT)**
dinesh **JUDGE**